

REMARKS

Claims 1-8, 13-25 and 30 are pending in the present application. By this Response, claims 1, 6, 7, 13, 18, 23, 24 and 30 are amended and claims 9-12, 26-29 and 31 are canceled. Claims 1, 13, 18 and 30 are amended to incorporate subject matter similar to claims 6 and 23. Claims 6 and 23 are amended in view of the subject matter incorporated into claims 1, 13, 18 and 30. Claims 7 and 24 are amended to correct their dependency in view of the amendments to claims 6 and 23. Reconsideration of the claims in view of the above amendments and the following remarks is respectfully requested.

I. 35 U.S.C. § 102, Alleged Anticipation, Claims 1-5, 8, 13, 15, 18-22, 25 and 30

The Office Action rejects claims 1-5, 8, 13, 15, 18-22, 25 and 30 under 35 U.S.C. § 102(e), as being allegedly anticipated by Camut et al. (U.S. Patent No. 6,684,257 B1). This rejection is respectfully traversed.

By this response, claims 1, 13, 18 and 30 are amended to incorporate subject matter similar to claims 6 and 23. Furthermore, the Office Action rejected the subject matter of claims 6 and 23 under 35 U.S.C. § 103(a), as being allegedly unpatentable by Camut et al. (U.S. Patent No. 6,684,257 B1) in view of Amstein et al. (U.S. Patent No. 5,793,966).

The Camut patent and the instant application were, at the time of the invention was made, owned by, or subject to an obligation of assignment to the same person. 35 U.S.C. § 103(c) states:

(c) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

The instant application was filed on or after November 29, 1999. The Camut patent qualifies as prior art only under 35 U.S.C. § 102(e). And, the instant application

and the Camut patent were commonly owned or subject to an obligation of assignment to the same person at the time the invention was made. Therefore, the Camut patent cannot be used in a 35 U.S.C. § 103 rejection to preclude patentability. As such, the rejection is improper and should be withdrawn.

At least by virtue of their dependency on independent claims 1, 13 and 18, the features of dependent claims 4-5, 8, 15, 19-22 and 25 are not taught by Camut and Amstein, whether taken alone or in combination. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 1-5, 8, 13, 15, 18-22, 25 and 30 under 35 U.S.C. § 103(a).

II. 35 U.S.C. § 103, Alleged Obviousness, Claims 6, 7 and 23-25

The Office Action rejects claims 6, 7 and 23-25 under 35 U.S.C. § 103(a), as being allegedly unpatentable over Camut et al. (U.S. Patent No. 6,684,257 B1) in view of Amstein et al. (U.S. Patent No. 5,793,966). This rejection is respectfully traversed.

Claims 6, 7 and 23-25 are dependent on independent claims 1 and 18 and, thus, these claims distinguish over Camut for at least the reasons noted above with regards to claims 1 and 18. Moreover, Amstein does not provide for the deficiencies of Camut and, thus, any alleged combination of Camut and Amstein would not be sufficient to reject independent claims 1 and 18 or claims 6, 7 and 23-25 by virtue of their dependency.

Moreover, the Office Action may not use the claimed invention as an "instruction manual" or "template" to piece together the teachings of the prior art so that the invention is rendered obvious. *In re Fritch*, 972 F.2d 1260, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992). Such reliance is an impermissible use of hindsight with the benefit of Applicants' disclosure. *Id.* Therefore, absent some teaching, suggestion, or incentive in the prior art, Camut and Amstein cannot be properly combined to form the claimed invention. As a result, absent any teaching, suggestion, or incentive from the prior art to make the proposed combination, the presently claimed invention can be reached only through an impermissible use of hindsight with the benefit of Applicants' disclosure a model for the needed changes.

In view of the above, Camut and Amstein, taken either alone or in combination, fail to teach or suggest the specific features recited in independent claims 1 and 18, from which claims 6, 7 and 23-25 depend. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 6, 7 and 23-25 under 35 U.S.C. § 103.

III. 35 U.S.C. § 103, Alleged Obviousness, Claims 14 and 16

The Office Action rejects claims 14 and 16 under 35 U.S.C. § 103(a), as being allegedly unpatentable over Camut et al. (U.S. Patent No. 6,684,257 B1) in view of LaBerge (U.S. Patent No. 6,041,380). This rejection is respectfully traversed.

Claims 14 and 16 are dependent on independent claim 13 and, thus, these claims distinguish over Camut for at least the reasons noted above with regards to claim 13. Moreover, the rejection of claims 14 and 16 is another 103 rejection based on the Camut reference, thus, this rejection is overcome under 35 U.S.C. § 103(c) as well.

Thus, in view of the above, Camut and LaBerge, taken either alone or in combination, fail to teach or suggest the specific features recited in independent claim 13, from which claims 14 and 16 depend. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 14 and 16 under 35 U.S.C. § 103.

IV. 35 U.S.C. § 103, Alleged Obviousness, Claim 17

The Office Action rejects claim 17 under 35 U.S.C. § 103(a), as being allegedly unpatentable over Camut et al. (U.S. Patent No. 6,684,257 B1) in view of Stern et al. (U.S. Patent No. 5,935,249). This rejection is respectfully traversed.

Claim 17 is dependent on independent claim 13 and, thus, these claims distinguish over Camut for at least the reasons noted above with regards to claim 13. Moreover, the rejection of claim 17 is another 103 rejection based on the Camut reference, thus, this rejection is overcome under 35 U.S.C. § 103(c) as well.

Thus, in view of the above, Camut and Stern, taken either alone or in combination, fail to teach or suggest the specific features recited in independent claim 13,

from which claim 17 depend. Accordingly, Applicants respectfully request withdrawal of the rejection of claim 17 under 35 U.S.C. § 103.

V. Conclusion

It is respectfully urged that the subject application is patentable over the prior art of record and is now in condition for allowance. The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

Respectfully submitted,

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